IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 20TH MARCH 2007 / 29TH PHALGUNA 1928

Crl.MC.No. 738 of 2007()

CC.643/2005 of JUDL.MAGISTRATE OF FIRST CLASS, MAVELIKKARA
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PETITIONER: ACCUSED

SULFI.A, ASEENA MANZIL,
UMAYANALLOR P.O., MYLAPUR, KOLLAM.

BY ADV. SRI.RINNY STEPHEN CHAMAPARAMPIL
SMT.ASHA ELIZABETH MATHEW

RESPONDENTS: COMPALIANANT
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1. DIVAKARAN, S/O KRISHNAN,
KANNAKARA VADAKKETHIL, VEDARPLAVU MURI,
VEDARAPLAVU P.O., THAMARAKULAM VILLAGE.

2. STATE OF KERALA, REP. BY STATE
PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 20/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.738 of 2007

Dated this the 20th day of March, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I Act. He had, it is submitted, appeared before the learned Magistrate and was enlarged on bail. He could not appear before the learned Magistrate on one of the dates of posting. Thereupon, warrant of arrest was issued against him. He finds the warrant of arrest chasing him. He is willing to surrender before the learned Magistrate. He apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. He therefore prays that powers under Section 482 Cr.P.C may be invoked and a direction may be issued to the learned Magistrate to release the petitioner on bail when he appears and applies for bail.

2. I do not find any need to invoke the powers under Section 482 Cr.P.C. It is for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or

specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed. But with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-